

Decision\_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Davis Motor Service,

Complainants,

vs.

Pacific Bell Telephone Company, dba AT&T  
California (U1001C),

Defendant.

(ECP)  
Case 14-01-015  
(Filed January 23, 2014)

Ivor Benci-Woodward for Davis Motor Service, Complainant.

Greta Banks for Pacific Bell Telephone Company, dba  
AT&T California, Defendant.

**DECISION DENYING COMPLAINT**

**Summary**

Ivor Benci-Woodward for Davis Motor Service, (Complainant) seeks reassurances that his bank account information will not be stored in the Pacific Bell Telephone Company, dba AT&T (AT&T or Defendant) interactive voice response system without his authorization. Complainant also requests compensation for time spent seeking a reversal of charges from AT&T for a payment that Complainant alleges was charged to his business credit card account without authorization.

Defendant claims that no customer credit card information was stored in the account and that the bill payment in question was made via AT&T's interactive voice response system with the payment information entered manually. At the request of Complainant, the Defendant reversed the payment the same day.

The request for relief is denied, as discussed below.

### **1. Positions of the Parties**

According to the complaint, on November 5, 2013, Complainant paid his home phone bill with his business credit card using interactive voice response system (IVR) and did not elect to have his credit card information stored for future use.<sup>1</sup> On November 13, 2013, Complainant's sister called AT&T to pay a \$655.70 home phone bill. Complainant states that the IVR system inquired if the credit card information on file should be used for the transaction. According to Complainant, his sister responded affirmatively and the payment was made using the same credit card information he used for the November 5 payment. Complainant alleges that AT&T stored his credit card information without authorization, because his sister was not in possession of the credit card and therefore, could not have entered the information manually.

In its answer to the complaint, Defendant states that its records indicate that Complainant's credit card information was not retained in this instance or any other, and that the credit card information used for the November 13, 2014, payment was manually entered at that time, not stored from an earlier transaction.

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<sup>1</sup> AT&T's records indicate that the payment was made on November 4, 2014.

**2. Discussion**

At the request of Complainant, with no opposition from Defendant, a telephonic evidentiary hearing was held on August 19, 2014. Complainant stipulates that the payment in question was reversed the same day at its request, but seeks reassurances from Defendant that his information will not be stored in the future and requests compensation for his time spent getting the charge reversed.

Prior to the telephonic hearing the Judge requested that AT&T provide records of Complainant's payment transaction history. AT&T provided the information in the form of screen shots. The transaction history and payment profile indicate that no personal credit card information was stored. AT&T stated that as an added measure to ensure the privacy of customer information, the IVR system does not default to storing the payment information. The customer must actively choose to have its credit card information stored. AT&T alleges, and the transaction history and payment profile screen shots confirm, that the November 13, 2013, payment information was manually entered into the IVR system.

The Complainant does not assert that his credit card information fell into the hands of an unauthorized user who made unauthorized purchases or that he incurred any damages in the form of over-balance fees or charges from the credit card issuer. AT&T reversed the charges the same day, at the request of the Complainant.

When the Judge asked Complainant how his sister intended to pay the bill if the IVR system had not inquired whether she wanted to use the stored information as alleged, he could not provide an answer. Unfortunately,

Complainant's sister was not present on the teleconference to provide that information.

Complainant continued to assert that his sister could not have manually entered the information because the credit card was in his wallet. However, physical possession of a credit card is not absolutely necessary to use a credit card, especially when making a payment using an IVR system.

Defendant provided screen shots of Complainant's transaction history and payment profile which would indicate if any information was stored. Both Complainant's transaction history and payment profile indicate that no information has ever been stored. AT&T contends that no alterations to the transaction history or profile could be made without the action being recorded by the system. Defendant also contends that the system's software program would have to be significantly modified in order to make unrecorded alterations to the transaction history or profile.

At the conclusion of the teleconference the Judge asked AT&T to check its records to see if the transaction was recorded and to respond with the information within a week. AT&T responded later the same day stating that if the transaction had been recorded, it would have been retained for only 30 days and therefore was not available.

Based on the information provided by both Complainant and Defendant, we are convinced that Defendant is currently and has been taking the steps necessary to protect customer information. Defendant reversed the payment in question the same day it was made, and there is no other relief we can provide. Therefore, the first part of Complainant's request for relief is moot.

Complainant also seeks compensation for the time spent getting the payment reversed. However, the Commission has no jurisdiction to award damages for alleged tortious conduct by a utility toward its customers.<sup>2</sup>

For these reasons, the complaint is denied.

**3. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Linda A. Rochester is the assigned Administrative Law Judge in this proceeding.

**IT IS ORDERED** that:

1. The relief requested is denied.
2. Case 14-01-015 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

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<sup>2</sup> *Schumacher v. Pacific Tel. & Tel. Co.*, 64 Cal. P.U.C. 295.